

Case No. 5:08-CV-2694
Gwin, J.

Judge's report and recommendation.

The Federal Magistrates Act requires a district court to conduct *de novo* review only of those portions of a report and recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a report and recommendation within fourteen days of service. [Id.](#) Failure to object within this time waives a party's right to appeal the magistrate judge's recommendation. [Fed. R. Civ. P. 72\(a\)](#); *see also Thomas v. Arn*, 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981).

Absent objection, a district court may adopt the magistrate judge's report without review. *See Thomas*, 474 U.S. at 149. Moreover, having conducted its own review of the this case, the Court agrees with the conclusions of Magistrate Judge McHargh.

The Court therefore **ADOPTS** the report and recommendation of the Magistrate Judge, **GRANTS** the Petitioner's motion to dismiss the case without prejudice [Doc. [23](#)], and **DENIES** the Petitioner's motion to compel the Warden to produce the new sentencing order [Doc. [21](#)].

IT IS SO ORDERED.

Dated: March 17, 2010

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE